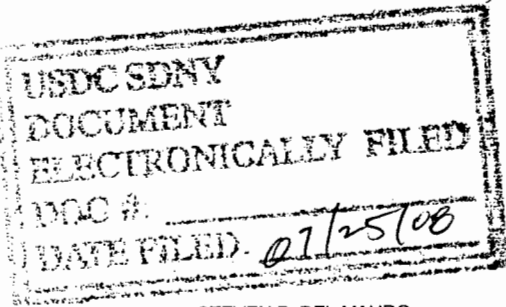


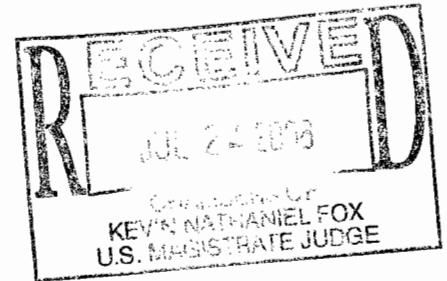
**McELROY, DEUTSCH, MULVANEY & CARPENTER, LLP**

ATTORNEYS AT LAW



THREE GATEWAY CENTER  
100 MULBERRY STREET  
NEWARK, NEW JERSEY 07102-4079  
(973) 622-7711  
FACSIMILE (973) 622-5314

STEVEN P. DEL MAURO  
Direct dial: (973) 565-2037  
sdelmauro@mdmc-law.com



July 22, 2008

**MEMO ENDORSED**

Honorable Kevin Nathaniel Fox, U.S.M.J.  
United States Courthouse, Room 530  
500 Pearl Street  
New York City, NY 10007-1312

**RE: Stuart Bitterman, M.D. v. Berkshire Life  
Insurance Company of America  
Civil Action No.: 07-cv-11061  
MDMC File No. B0566-1005**

Dear Judge Fox:

Please be advised that our office represents defendant, Berkshire Life Insurance Company of America in connection with the above matter. We acknowledge receipt of Your Honor's endorsed order dated July 18, 2008, resetting the settlement conference from September 30 to September 24, 2008, at 10:30 a.m. On behalf of Berkshire Life, we respectfully request Your Honor to reschedule the settlement conference in this cause.

The reason for our request is that I will be unavailable for the settlement conference. I am scheduled to attend the International Claim Association annual meeting to be conducted in California leaving Saturday, September 20 and returning Wednesday, September 24<sup>th</sup>. During the International Claim Association annual meeting, I am scheduled to deliver a speech on Tuesday, September 23, and as such my attendance is necessary. As I will be traveling on the day set for the conference to return home, I will not be available.

7/25/08

*The settlement conference will be  
held on September 3, 2008, at 10:30 a.m.*

SO ORDERED:

*Kevin Nathaniel Fox*  
**KEVIN NATHANIEL FOX, U.S.M.J.**

**MC ELROY, DEUTSCH, MULVANEY & CARPENTER, LLP**

Honorable Kevin Nathaniel Fox, U.S.M.J.  
July 22, 2008  
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May we respectfully request Your Honor's kind courtesy in rescheduling the settlement conference in this regard.

Respectfully submitted,

MC ELROY, DEUTSCH, MULVANEY & CARPENTER, LLP

Steven F. Del Mauro

SPD:bk  
Enclosure  
cc: Ira Lipsius, Esq.  
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